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HOUSE BILL 357

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Rhonda S. King

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO COUNTIES; ENACTING THE COUNTY DETENTION FACILITY REIMBURSEMENT ACT; PROVIDING REIMBURSEMENT TO COUNTIES FOR THE COSTS OF INCARCERATION OF CERTAIN PERSONS CONVICTED OF A FELONY; CREATING THE COUNTY DETENTION FACILITY REIMBURSEMENT FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "County Detention Facility Reimbursement Act".

Section 2. DEFINITIONS.--As used in the County Detention Facility Reimbursement Act:

A. "county detention facility" means a facility that is owned, operated or under contract of operation by a board of county commissioners and that is used for the incarceration of prisoners charged with or convicted of a

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1 violation of local, state, tribal, federal or international  
2 law;

3 B. "dual supervision offender" means an individual  
4 who is serving a probation term and a parole term;

5 C. "eligible county" means a county that provides  
6 information to the New Mexico sentencing commission regarding  
7 costs incurred by the county for the incarceration of felony  
8 offenders;

9 D. "felony offender" means an individual who is  
10 convicted of a felony and sentenced to confinement in a  
11 correctional facility designated by the corrections department  
12 and who:

13 (1) has been released from confinement and is  
14 a dual supervision offender and:

15 (a) has violated parole or is charged  
16 with a parole violation;

17 (b) has violated probation or is charged  
18 with a probation violation; or

19 (c) while on probation or parole, is  
20 charged with a violation of local, state, tribal, federal or  
21 international law; or

22 (2) has been released from confinement and is  
23 serving a parole term and:

24 (a) has violated parole or is charged  
25 with a parole violation; or

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1 (b) while on parole, is charged with a  
2 violation of local, state, tribal, federal or international  
3 law; or

4 (3) is awaiting transportation and commitment  
5 to the corrections department following the revocation of  
6 parole or a sentencing hearing for a felony conviction; and

7 E. "fund" means the county detention facility  
8 reimbursement fund.

9 Section 3. INCARCERATION OF FELONY OFFENDERS IN COUNTY  
10 DETENTION FACILITIES--RATE OF REIMBURSEMENT.--

11 A. The distribution amount for each eligible county  
12 each fiscal year shall be derived by multiplying the total  
13 amount of money available in the fund less thirty thousand  
14 dollars (\$30,000) by the felony offender incarceration  
15 percentage for that county. The felony offender incarceration  
16 percentage shall be equal to a fraction:

17 (1) the numerator of which is the rolling  
18 average of the number of felony offenders incarcerated in an  
19 eligible county on June 30 of each of the three fiscal years  
20 immediately preceding the fiscal year in which the distribution  
21 is to be made pursuant to Section 4 of the County Detention  
22 Facility Reimbursement Act; and

23 (2) the denominator of which is the rolling  
24 average of the number of felony offenders incarcerated in all  
25 eligible counties on June 30 of each of the three fiscal years

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1 immediately preceding the fiscal year in which the distribution  
2 is to be made pursuant to Section 4 of the County Detention  
3 Facility Reimbursement Act.

4 B. Annually, on or before December 1, the New  
5 Mexico sentencing commission shall:

6 (1) determine the felony offender  
7 incarceration percentage for each eligible county;

8 (2) calculate the distribution amount for each  
9 eligible county by applying the formula in Subsection A of this  
10 section; and

11 (3) certify to the state treasurer the felony  
12 incarceration percentage and the distribution amount for each  
13 eligible county.

14 Section 4. COUNTY DETENTION FACILITY REIMBURSEMENT FUND  
15 CREATED--DISTRIBUTION.--

16 A. The "county detention facility reimbursement  
17 fund" is created in the state treasury. The fund consists of  
18 appropriations, gifts, grants, donations and bequests made to  
19 the fund. Money in the fund shall not revert or be transferred  
20 to any other fund at the end of a fiscal year, and income from  
21 investment of the fund shall be credited to the fund. The  
22 state treasurer shall administer the fund, and money in the  
23 fund is appropriated to the state treasurer to make  
24 distributions to counties in accordance with Subsection B of  
25 this section. No money in the fund shall be expended by the

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1 state treasurer for the purpose of administering the fund.

2 B. Annually, on or before January 30 and to the  
3 extent money in the fund is available for such purposes, money  
4 in the fund shall be distributed by the state treasurer as  
5 follows:

6 (1) thirty thousand dollars (\$30,000) to the  
7 New Mexico sentencing commission to fund the annual calculation  
8 of the felony offender incarceration percentage and the  
9 distribution amount for each eligible county; and

10 (2) the remainder of the fund to eligible  
11 counties in the amounts certified to the state treasurer in  
12 accordance with Section 3 of the County Detention Facility  
13 Reimbursement Act.

14 Section 5. APPROPRIATION.--Five million dollars  
15 (\$5,000,000) is appropriated from the general fund to the  
16 county detention facility reimbursement fund for expenditure in  
17 fiscal year 2008 and subsequent fiscal years to carry out the  
18 provisions of the County Detention Facility Reimbursement Act.  
19 Any unexpended or unencumbered balance remaining at the end of  
20 a fiscal year shall not revert to the general fund.

21 Section 6. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2007.

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